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TH CONGRESS, 1st Session. | SENATE. | REPORT. No. 176.

TREATY OF PEACE WITH GERMANY.

SEPTEMBER 10, 1919.—Ordered to be printed.

Mr. LODGE, from the Committee on Foreign Relations, submitted the following

REPORT.

[To accompany S. Doc. 51.]

The treaty of peace with Germany was laid before the Senate by the President on July 10, 1919. Three days were consumed in printing the treaty, which was in two languages and filled 537 quarto pages. The treaty therefore was not in the possession of the committee for action until July 14, 1919. The report upon the treaty was ordered by the committee on September 4. Deducting Sundays and a holiday, the treaty has been before the Committee on Foreign Relations for 45 days. The committee met on 37 of those working days, sitting whenever possible both in the morning and afternoon. The eight working days upon which the committee did not sit were lost owing to unavoidable delays in securing the presence of witnesses summoned by the committee. In view of the fact that six months were consumed by the peace conference in making the treaty, in addition to a month of work by the various delegations before the assembling of the conference, the period of six weeks consumed by the committee in considering it does not seem excessive.

These facts are mentioned because there has been more or less clamor about delay in the committee. This demand for speed in the consideration of the most important subject which ever came before the Senate of the United States, involving as it does fundamental changes in the character of our Government and the future of our country for an unlimited period, was largely the work of the administration and its newspaper organs and was so far wholly artificial. Artificial also was the demand for haste disseminated by certain great banking firms which had a direct pecuniary interest in securing an early opportunity to reap the harvest which they expected from the adjustment of the financial obligations of the countries which had been engaged in the war. The third element in the agitation for haste was furnished by the unthinking outcry of many excellent people

who desired early action and who for the most part had never read the treaty or never got beyond the words "league of nations," which they believed to mean the establishment of eternal peace. To yield helplessly to this clamor was impossible to those to whom was entrusted the performance of a solemn public duty.

The responsibility of the Senate in regard to this treaty is equal to that of the Executive, who, although aided by a force of thirteen hundred assistants, expert and otherwise, consumed six months in making it, and the Senate and its Committee on Foreign Relations can not dispose of this momentous document with the light-hearted indifference desired by those who were pressing for hasty and thoughtless action upon it. The committee was also hampered by the impossibility of securing the full information to which they were entitled from those who had conducted the negotiations. The committee were compelled to get such imperfect information as they secured from press reports, by summoning before them some of the accessible experts who had helped to frame the complicated financial clauses and certain outside witnesses. As an illustration in a small way of the difficulties in securing information, it may be stated that no provision had been made to supply the Senate with the maps accompanying the treaty, and it was necessary to send to Paris to procure them. The only documents of the many asked for by the committee which were furnished by the Executive were the American plan for the league of nations, submitted to the commission on the league covenant, and the composite draft made by experts of that commission.

The treaties with Poland and with France as well as the Rhine protocol, all integral parts of the treaty with Germany, were obtained by the Senate, prior to their transmission by the President, from the documents laid before the House of Commons and the Chamber of Deputies early in July by the Prime Ministers of England and France. The records of the peace conference and of the conferences of the representatives of the five great powers were asked for by the committee and refused by the Executive. The committee had before them the Secretary of State, who was one of the American delegates and a signer of the treaty, and they also had the privilege of a meeting with the President at the White House which they had themselves requested. The testimony of the Secretary of State and the conversation of the committee with the President, published in the record of the committee hearings, have been laid before the country by the press and it is not necessary to say anything further in regard to them because the people themselves know how much information in regard to the treaty was received by the committee upon those two occasions.

The character of the clamor for speedy action is well illustrated by the fact that it was directed solely against the Senate of the United States and its Committee on Foreign Relations. The treaty provides that it shall go into force when ratified by Germany and by three of the principal allied and associated powers, which are the United States, France, Great Britain, Italy, and Japan. Great Britain very naturally ratified at once, but no one of the other four has yet acted. Persons afflicted with inquiring minds have wondered not a little that the distressed mourners over delays in the Senate

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have not also aimed their criticism at the like shortcomings on the part of France, Italy, and Japan, an act of even-handed justice in faultfinding which they have hitherto failed to perform.

Perhaps it is well also to note and to consider for a moment one of the reasons given for the demand for hasty action, which was to the effect that it was necessary to have prompt ratification in order to renew our trade with Germany, for even the most ardent advocate of unconsidered action was unable to urge that the channels of trade to the allied countries were not open. The emptiness of this particular plea for haste, now rather faded, is shown by the fact that we have been trading with Germany ever since the armistice. Between that event and the end of July we have exported to Germany goods valued at $11,270,624. In the month of June we exported more to Germany than we did to Spain. In July, by orders of the War Trade Board, the provisions of the trading-with-the enemy act were set aside by the authorization of licenses to trade, and exports to Germany for the month of July amounted to $2,436,742, while those to Austria and Hungary were $1,016,518.

It is an interesting fact that the exports in June in Germany, before the relaxation of the trading-with-the-enemy-act, were much larger than after that relaxation, brought about by allowing licenses, was ordered, an indication of the undoubted truth that our trade with foreign countries is not affected by the treaty, but is governed by the necessarily reduced purchasing power of all countries in Europe engaged in the war. As a matter of fact, therefore, we are trading with Germany, and it is a mere delusion to say that we can not trade with Germany until the ratification of the treaty, because in order to do so we require a new treaty of amity and commerce and the reestablishment of our consular system in that country. The United States, following the usual custom, was represented in Germany by Spain both in the consular and in the diplomatic service, after the outbreak of the war, and we can transact all the business we may desire through the good offices of Spanish consuls until a new consular treaty with Germany has been made.

Before leaving this subject it may not be amiss to remark that Mr. Lloyd-George has recently made two important speeches expressing grave apprehensions as to the social and political unrest and the economic troubles now prevalent in England. He seems to have failed to point out, however, that the ratification of the covenant of the league of nations by Great Britain had relieved the situation which he had described. He was apparently equally remiss in omitting to suggest that prompt action by the Senate of the United States in adopting the covenant of the league of nations would immediately lower the price of beef.

In reporting the treaty to the Senate for action the committee propose certain amendments to the text of the treaty and certain reservations to be attached to the resolution of ratification and made a part of that resolution when it is offered.

In regard to the amendments generally it should be stated at the outset that nothing is more groundless than the sedulously cultivated and constantly expressed fear that textual amendments would require a summoning of the peace conference, and thereby cause great delay. There will be no necessity of summoning the peace conference, because it is in session now in Paris, with delegates fully representing

all the signatory nations, as it has been for six months, and it seems likely to be in session for six months more. Textual amendments, if made by the Senate, can be considered in Paris at once and the conference would be at least as usefully employed in that consideration as they now are in dividing and sharing southeastern Europe and Asia Minor, in handing the Greeks of Thrace over to our enemy, Bulgaria, and in trying to force upon the United States the control of Armenia, Anatolia, and Constantinople through the medium of a large American Army. Still more unimportant is the bugbear which has been put forward of the enormous difficulties which will be incurred in securing the adhesion of Germany. No great amount of time need be consumed in bringing German representatives to Paris. The journey is within the power of a moderate amount of human endurance, and it is also to be remembered that Germany is not a member of the league and need not be consulted in regard to the terms of the covenant. When Germany enters the league she will take it as she finds it.

AMENDMENTS.

The first amendment offered by the committee relates to the league. It is proposed so to amend the text as to secure for the United States a vote in the assembly of the league equal to that of any other power. Great Britain now has under the name of the British Empire one vote in the council of the league. She has four additional votes in the assembly of the league for her self-governing dominions and colonies, which are most properly members of the league and signatories to the treaty. She also has the vote of India, which is neither a self-governing dominion nor a colony but merely a part of the Empire and which apparently was simply put in as a signatory and member of the league by the peace conference because Great Britain desired it. Great Britain also will control the votes of the Kingdom of Hejaz and of Persia. With these last two of course we have nothing to do. But if Great Britain has six votes in the league assembly no reason has occurred to the committee and no argument had been made to show why the United States should not have an equal number. If other countries like the present arrangement, that is not our affair; but the committee failed to see why the United States should have but one vote in the assembly of the league when the British Empire has six.

Amendments 39 to 44, inclusive, transfer to China the German lease and rights, if they exist, in the Chinese Province of Shantung, which are given by the treaty to Japan. The majority of the committee were not willing to have their votes recorded at any stage in the proceedings in favor of the consummation of what they consider a great wrong. They can not assent to taking the property of a faithful ally and handing it over to another ally in fulfillment of a bargain made by other powers in a secret treaty. It is a record which they are not willing to present to their fellow citizens or leave behind them for the contemplation of their children.

Amendment No. 2 is simply to provide that where a member of the league has self-governing dominions and colonies which are also members of the league, the exclusion of the disputants under the league rules shall cover the aggregate vote of the member of the

league and its self-governing dominions and parts of empire combined if any one of them is involved in the controversy.

The remaining amendments, with a single exception, may be treated as one, for the purpose of all alike is to relieve the United States from having representatives on the commissions established by the league which deal with questions in which the United States has and can have no interest and in which the United States has evidently been inserted by design. The exception is amendment No. 45, which provides that the United States shall have a member of the reparation commission but that such commissioner of the United States can not, except in the case of shipping where the interests of the United States are directly involved, deal with or vote upon any other questions before that commission except under instructions from the Government of the United States.

RESERVATIONS.

The committee proposes four reservations to be made a part of the resolution of ratification when it is offered. The committee reserves, of course, the right to offer other reservations if they shall so determine. The four reservations now presented are as follows:

"1. The United States reserves to itself the unconditional right to withdraw from the league of nations upon the notice provided in article 1 of said treaty of peace with Germany."

The provision in the league covenant for withdrawal declares that any member may withdraw provided it has fulfilled all its international obligations and all its obligations under the covenant. There has been much dispute as to who would decide if the question of the fulfillment of obligations was raised and it is very generally thought that this question would be settled by the council of the league of nations. The best that can be said about it is that the question of decision is clouded with doubt. On such a point as this there must be no doubt. The United States, which has never broken an international obligation, can not permit all its existing treaties to be reviewed and its conduct and honor questioned by other nations. The same may be said in regard to the fulfillment of the obligations to the league. It must be made perfectly clear that the United St tes alone is to determine as to the fulfillment of its obligations, and its right of withdrawal must therefore be unconditional as provided in the reservation.

"2. The United States declines to assume, under the provisions of article 10, or under any other article, any obligation to preserve the territorial integrity or political independence of any other country or to interfere in controversies between other nations, members of the league or not, or to employ the military or naval forces of the United States in such controversies, or to adopt economic measures, for the protection of any other country, whether a member of the league or not, against external aggression or for the purpose of coercing any other country, or for the purpose of intervention in the internal conflicts or other controversies which may arise in any other country, and no mandate shall be accepted by the United States under article 22, Part I, of the treaty of peace with Germany, except by action of the Congress of the United States."

This reservation is intended to meet the most vital objection to the league covenant as it stands. Under no circumstances must

there be any legal or moral obligation upon the United States to enter into war or to send its Army and Navy abroad or without the unfettered action of Congress to impose economic boycotts on other countries. Under the Constitution of the United States the Congress alone has the power to declare war, and all bills to raise revenue or affecting the revenue in any way must originate in the House of Representatives, be passed by the Senate, and receive the signature of the President. These constitutional rights of Congress must not be impaired by any agreements such as are presented in this treaty, nor can any opportunity of charging the United States with bad faith be permitted. No American soldiers or sailors must be sent to fight in other lands at the bidding of a league of nations. American lives must not be sacrificed except by the will and command of the American people acting through their constitutional representatives in Congress.

This reservation also covers the subject of mandates. According to the provisions of the covenant of the league the acceptance of a mandate by any member is voluntary, but as to who shall have authority to refuse or to accept a mandate for any country the covenant of the league is silent. The decision as to accepting a mandate must rest exclusively within the control of the Congress of the United States as the reservation provides and must not be delegated, even by inference, to any personal agent or to any delegate or commissioner.

"3. The United States reserves to itself exclusively the right to decide what questions are within its domestic jurisdiction, and declares that all domestic and political questions relating to its affairs, including immigration, coastwise traffic, the tariff, commerce, and all other domestic questions, are solely within the jurisdiction of the United States and are not under this treaty submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations, or to the decision or recommendation of any other power."

This reservation speaks for itself. It is not necessary to follow out here all tortuous windings, which to those who have followed them through the labyrinth disclose the fact that the league under certain conditions will have power to pass upon and decide questions of immigration and tariff, as well as the others mentioned in the reservation. It is believed by the committee that this reservation relieves the United States from any dangers or any obligations in this direction.

The fourth and last reservation is as follows:

"4. The United States declines to submit for arbitration or inquiry by the assembly or the council of the league of nations provided for in said treaty of peace any questions which in the judgment of the United States depend upon or relate to its long-established policy, commonly known as the Monroe doctrine; said doctrine is to be interpreted by the United States alone, and is hereby declared to be wholly outside the jurisdiction of said league of nations and entirely unaffected by any provision contained in the said treaty of peace with Germany."

The purpose of this reservation is clear. It is intended to preserve the Monroe doctrine from any interference or interpretation by foreign powers. As the Monroe doctrine has protected the United

States, so, it is believed by the committee, will this reservation protect the Monroe doctrine from the destruction with which it is threatened by article 21 in the covenant of the league and leave it, where it has always been, within the sole and complete control of the United States.

This covenant of the league of nations is an alliance and not a league, as is amply shown by the provisions of the treaty with Germany which vests all essential power in five great nations. Those same nations, the principal allied and associated powers, also dominate the league through the council.

The committee believe that the league as it stands will breed wars instead of securing peace. They also believe that the covenant of the league demands sacrifices of American independence and sovereignty which would in no way promote the world's peace but which are fraught with the gravest dangers to the future safety and well being of the United States. The amendments and reservations alike are governed by a single purpose and that is to guard American rights and American sovereignty, the invasion of which would stimulate breaches of faith, encourage conflicts, and generate wars. The United States can serve the cause of peace best, as she has served it in the past, and do more to secure liberty and civilization throughout the world by proceeding along the paths she has always followed and by not permitting herself to be fettered by the dictates of other nations or immersed and entangled in all the broils and conflicts of Europe.

We have heard it frequently said that the United States "must" do this and do that in regard to this league of nations and the terms of the German peace. There is no "must" about it. "Must" is not a word to be used by foreign nations or domestic officials to the American people or their representatives. Equally unfitting is the attempt to frighten the unthinking by suggesting that if the Senate adopts amendments or reservations the United States may be excluded from the league. That is the one thing that certainly will not happen. The other nations know well that there is no threat of retaliation possible with the United States because we have asked nothing for ourselves and have received nothing. We seek no guarantees, no territory, no commercial benefits or advantages. The other nations will take us on our own terms for without us their league is a wreck and all their gains from a victorious peace are imperiled. We exact nothing selfish for ourselves but we insist that we shall be the judges, and the only judges, as to the preservation of our rights, our sovereignty, our safety, and our independence.

At this moment the United States is free from any entanglements or obligations which legally or in the name of honor would compel her to do anything contrary to the dictates of conscience or to the freedom and the interests of the American people. This is the hour when we can say precisely what we will do and exactly what we will not do, and no man can ever question our good faith if we speak now. When we are once caught in the meshes of a treaty of alliance or a league of nations composed of 26 other powers our freedom of action is gone. To preserve American independence and American sovereignty and thereby best serve the welfare of mankind the committee propose these amendments and reservations.

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66TH CONGRESS, 1st Session. | SENATE. | REPT. 176, Part 2.

TREATY OF PEACE WITH GERMANY.

SEPTEMBER 11, 1919.—Ordered to be printed.

Mr. HITCHCOCK, from the Committee on Foreign Relations, submitted the following

VIEWS OF THE MINORITY.

[To accompany S. Doc. 51.]

The undersigned members of the Foreign Relations Committee unite in urging the early ratification of the pending treaty of peace without amendments and without reservations.

We deplore the long and unnecessary delay to which the treaty has been subjected while locked up in the committee whose majority decisions and recommendations were from the start a foregone conclusion. They could have been made in July as well as in September and would have been the same.

The industrial world is in ferment, the financial world in doubt, and commerce halts while this great delay in the peace settlement has been caused by the majority of a committee known to be out of harmony with the majority of the Senate and the majority of the people. This is government by obstruction as well as by a minority.

Our export trade already shows the undeniable effects of delay and doubt in treaty ratification and peace settlement. For the first seven months following the armistice our exports averaged almost seven hundred millions per month but in July they fell to five hundred and seventy millions of dollars. Europe undoubtedly wants our products but can only take them in full quantity if our financial institutions provide the credit to bridge over the period necessary to restore European industry to productiveness. This private credit can not and will not be furnished as long as the peace settlement is in doubt. Public credit has heretofore carried this great balance of trade. Since the armistice was signed our Government has advanced to European governments nearly two and one-half billion dollars which was almost enough to cover the balance of trade during the eight months period.

Our Government, however, has about reached the end of its authority given by Congress and will advance but little more. From

now on, if we are to keep up our commerce with Europe, private enterprise must furnish the credit to cover the trade balance till European industries get started and are able to pay us with their goods. Peace settlement delays and doubts paralyze this revival. If uncertainty continues depression is inevitable.

The claim by the majority of this committee on page 3 of their report that we have exported over eleven million dollars worth of goods to Germany since the armistice and without a peace settlement is no doubt true. To other countries during the same period we exported over five thousand million dollars worth. What was exported to Germany as stated by the majority report was practically nothing. It is only 14 cents worth of American products for each person in Germany in seven months or 2 cents per person per month, yet the majority report boasts of it as evidence of trade revival in spite of treaty delay. The same statesmen gravely assure us that their figures prove that it is a mere delusion to say we can not trade with Germany till a peace settlement is made. Two cents per month per capita is hardly trading with Germany.

Referring to the action of the majority of the committee, we unite in opposing and condemning the recommendations both as to textual amendments and as to proposed reservations. As far as the proposed textual amendments are concerned we see no reason to discuss their character at length. In our opinion they have no merit, but whether they be good, bad, or indifferent their adoption by the Senate can have no possible effect except to defeat the participation of the United States in the treaty. None of them could by any possibility be accepted even by the great nations associated with the United States in the war, and none of them could by any possibility be dictated to Germany. To adopt any one of them, therefore, is equivalent to rejecting the treaty.

The suggestion on page 4 of the majority report that the peace conference is still in session in Paris and could consider any textual amendments to the treaty made by the Senate, and that German representatives could be brought to Paris for that purpose, indicates a total misconception of the situation. The peace conference has acted finally upon this treaty. Great Britain has ratified it, France is about to do so, and with the action of one other power it will in all human probability be in actual operation even before the Senate of the United States reaches a decision. Moreover, the peace conference possesses no further power to "bring German representatives to Paris." The power of compulsion has been exhausted. Germany was told where to sign and when to sign and when to ratify, and Germany has closed the chapter by signing and by ratifying. Germany can not be compelled to do anything more or different with regard to this treaty by being confronted with an amended treaty whether once a month, day, or week. There must be a finality to ultimata in a treaty by compulsion. If an amended treaty is not signed by Germany then it is in none of its parts binding on her.

To adopt an amendment or to reject the treaty means that the United States will sacrifice all of the concessions secured from Germany by a dictated peace. While these concessions are not so large as those which other nations associated with us secure in repara-

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tions, they are nevertheless of tremendous importance and could only be secured under a dictated peace. Among the concessions which the United States would sacrifice by the adoption of any amendment or the rejection of the treaty may be included the following:

First. Germany's acknowledgment of responsibility for the war and her promise to make restitution for damages resulting from it.

Second. Germany's promise to us in the treaty that she will not impose higher or other customs duties or charges on our goods than those charged to the most favored nation and will not prohibit or restrict or discriminate against imports directly or indirectly from our country.

Third. Germany's promise to us in the treaty that she will make no discrimination in German ports on shipping bearing our flag and that our shipping in German ports will be given as favorable treatment as German ships receive.

Fourth. That for six months after the treaty goes into effect no customs duty will be levied against imports from the United States except the lowest duties that were in force for the first six months of 1914.

Fifth. Germany's agreement with us that the United States shall have the privilege of reviving such of the treaties with Germany as were in existence prior to the war as we may alone desire.

Sixth. Germany's promise to us to restore the property of our citizens seized in Germany or to compensate the owners.

Seventh. Germany's very important agreement validating all acts by the United States and by the Alien Property Custodian by which we seized and proceeded to liquidate $800,000,000 worth of property in the United States belonging to German citizens.

Eighth. Germany's agreement that the proceeds of the sale of these properties may be used to compensate our citizens in Germany if Germany fails to do so, or to pay debts which Germany or Germans owe to American citizens, or to pay American prewar claims against Germany for property destroyed and lives taken similar to the losses because of the destruction of the *Lusitania*.

Ninth. Germany's agreement that she will compensate her own citizens for property, patents, and other things belonging to them in the United States seized during the war by our Government.

Tenth. Germany's agreement that no claim can be made against the United States in respect to the use or sale during the war by our Government, or by persons acting for our Government, of any rights in industrial, literary, or artistic property, including patents.

Eleventh. Germany's agreement that the United States shall retain over 500,000 tons of German shipping seized in American ports which much more than compensate us for shipping lost during the war.

Twelfth. We would lose our membership on the reparations commission which will be the most powerful international body ever created and which will have enormous control over the trade and commerce of Germany with the rest of the world for years to come. It not only supervises the use of German economic resources and the payment of reparations, but it can restrict or expand Germany's imports and distribute much of her desirable exports including dyes. In no way can the United States assure itself against dis-

crimination in German imports and financial policies unless we have a member upon this great reparations commission.

These are some, but by no means all of the valuable concessions, which the United States would inevitably sacrifice by failing to ratify the treaty. This failure would be just as complete if we adopt an amendment to it as if we rejected the treaty absolutely. In either event, we would find ourselves at the end of the war, it is true, but without any peace or terms of peace with Germany. We would have abandoned our disgusted associates and we would be reduced to the necessity of seeking a negotiated peace with an angry Germany on such terms as she would be willing to accord.

We are, therefore, without any qualification, against amendments.

We are aware that the claim has been set up that one of the proposed amendments which relates only to the league of nations does not require the assent of Germany. This is based on the fact that Germany is not yet a member of the league of nations and may not be for several years. The answer is, however, that the league covenant is a part of the treaty, and the league which is mentioned in many places in the treaty has much to do with German affairs even though Germany is not a member. Germany, in agreeing to the treaty, has assented to the provisions of the covenant, and one of the provisions is that it can only be amended by the action of the league, which has not yet started, ratified by all the members of the council, which has not yet organized, as well as by a majority of the members of the assembly. It is obvious, therefore, if it is to be amended in any other way Germany's assent will be just as necessary as to any other article of the treaty.

RESERVATIONS.

The reservations proposed by the majority of this committee are of such a character as at once betray their authorship. They are the work of Senators organized for the purpose of destroying the league and if possible defeating this treaty. Their phraseology is such as make this purpose plain. They are in no sense interpretative reservations to be used to make clear language in the treaty that might be considered doubtful, but they are so framed as to receive the support of Senators who desire the defeat of the treaty. While masquerading in the guise of reservations they are in fact alterations of the treaty. They have all the vices of amendments and the additional vice of pretending to be what they are not. Presented as parts of the resolution to ratify the treaty they would in fact, if adopted, result in its defeat. All of them apply to the league of nations section of the treaty. Those who oppose the league of nations realize that it is invincible on a square fight and they hope to destroy it by this indirection.

The league of nations has stood the test of world-wide criticism and unlimited attack. It stands to-day as the only hope for world peace. After all the assaults of many months its purposes and provisions stand out clearly defined, unaffected by criticism, and unyielding to attack.

THE LEAGUE OF NATIONS.

The league of nations proposes to organize the nations of the world for peace whereas they have always heretofore been organized for war. It proposes to establish the rule of international justice in place of force. It proposes to make a war of conquest impossible by uniting all nations against the offender.

It is the first international arrangement ever made by which small and weak nations are given the organized strength of the world for protection.

It is a covenant between many nations by which each agrees not to do certain things which in the past have produced wars and to do many things which have been found to preserve the peace.

It is a working plan for the gradual reduction of armament by all members simultaneously in proper proportion and by agreement.

It sets up arbitration as a friendly method of adjusting disputes and inquiry when arbitration is not agreed to. In both cases it provides a cooling-off period of nine months during which the differences may be adjusted.

It preserves the territorial integrity and political independence of each member and leaves to each the exercise of its sovereign rights as a nation.

It will save the world from wars and preparations for wars. It will reduce armies and navies and taxes.

It will help to remove the discontent with government in all countries by making government beneficent and devoting its revenues to constructive rather than to destructive purposes.

It is the only plan proposed to redeem the world from war, pestilence and famine. The only one by which a stricken world can be redeemed from the disasters of the late war and the dangers of impending international chaos. Those who dally and delay as they seek with microscopes to find some petty flaw in its structure have nothing themselves to propose. They have appealed to every prejudice and resorted to every desperate method of attack to destroy this great international effort to establish peace, but they suggest nothing in its place.

They denounce the public demand for energetic action as "clamor." They rail at the President who with the representatives of many other nations has devoted months of hard work to a great constructive effort to settle the terms and reorganize the world for peace. Finally, unable to stem the tide of public demand for the league of nations they resort to so-called reservations in the hope that they can destroy by indirection what they have found unassailable by direct attack.

We renew our recommendation that the work of the peace conference be confirmed, the will of the people fulfilled, and the peace of the world advanced by the ratification of this treaty—"the best hope of the world"—even if like all human instrumentalities it be not divinely perfect in every detail.

GILBERT M. HITCHCOCK.
JOHN SHARP WILLIAMS.
CLAUDE A. SWANSON,
ATLEE POMERENE,
MARCUS A. SMITH,
KEY PITTMAN.

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66TH CONGRESS, 1st Session. | SENATE. | REPT. No. 176, Pt. 3.

TREATY OF PEACE WITH GERMANY.

SEPTEMBER 15, 1919.—Ordered to be printed.

Mr. MCCUMBER, from the Committee on Foreign Relations, reported the following

VIEWS IN DISAGREEMENT WITH THE MAJORITY REPORT.

[To accompany S. Doc. 51.]

It has always been understood that the purpose of a report from any Senate committee was to briefly explain the object of a bill or treaty reported and the reasons for any amendments thereto. And this has been the general rule adopted by all committees in reporting any matter to the Senate. The majority of the Committee on Foreign Relations have deviated from this rule in reporting this treaty. The great purposes of the covenant upon which 27 nations, the great and small of the world, studied and labored for six months in an attempt to formulate a plan that would tend to insure good fellowship among the nations of the world and prevent another such catastrophe as we have just passed through have not been even alluded to. Not one word is said, not a single allusion made, concerning either the great purpose of the league of nations or the methods by which those purposes are to be accomplished.

Irony and sarcasm have been substituted for argument, and positions taken by the press or individuals outside the Senate seem to command more attention than the treaty itself. While a great number of witnesses were called for the purpose of condemning or criticizing the treaty, no witnesses were called and no testimony sought to elucidate or explain the great purpose of international cooperation to prevent war. It is regrettable that the animosity which centers almost wholly against the league of nations provisions should have been engendered against a subject so important to the world's welfare. It is regrettable that the consideration of a matter so foreign to any kind of partisanship should be influenced in the country as well as on the floor of this Senate by hostility toward or subserviency to the President of the United States. No matter how just may be the criticism of the course pursued by President Wilson, the aspirations and hopes of a wounded and bleeding world ought not to be denied because, under our Constitution, the treaty must first be formulated by him.

The purpose of this treaty is, first, to settle the score of this unprovoked war, this murder directly and indirectly of about twenty millions of the best people of the world, that the ambitions of an autocratic sovereign, with his Junker following, might be satisfied at the

expense of the liberty of the other nations of Europe; second, to secure an agreement among all of the great nations of the world, a compact with and between them all, to combine their councils to prevent another such tragedy and to henceforth assure the settlement of international disputes by arbitration or other peaceful method.

As the United States, though somewhat belated, performed an important part in bringing the war to a successful close, and as the United States must be one of the signatory powers to the treaty of peace, one can scarcely understand this studied effort on the part of a majority of the committee to eliminate the United States as a factor in determining any question relating to the final settlement of this conflict. Neither can one understand why a country whose whole history has been devoted to the advocacy of the peaceful settlement of international disputes is suddenly to have its policy reversed and to become in effect an opponent of the only means that has ever been attempted to assure world peace, namely, an agreement, not between two nations or between two groups of nations that they will settle their difficulties by arbitration, but an agreement among all nations, that they shall not resort to war without first submitting their controversies either for arbitration or discussion, to a council of all; that no nation shall begin a war of aggression against another without such submission, and that if such recalcitrant nation does attempt a war of aggression and wrong, the other nations to the compact will prevent the consummation of such felonious policy.

There has been written into this compact a great underlying principle which is the very soul of the agreement, that the same code of morality which governs people in their relations to each other in every highly organized State of the world shall govern nations in their relations to each other; that no nation shall rob another nation of its territory or its independence; that no nation shall have the right to murder the people of another nation for the selfish purpose of extending its own domains.

No statesman, no philosopher, has ever yet given a single reason why nations, which are but collections of individuals, should not be governed in their international relations by the same code of ethics that governs the peoples of communities or States in their internal relations.

For the first time in the history of the world this great advance step is attempted. The whole issue is whether nations can so eliminate their selfish desires, so restrain their national avarice, as to accord equal justice to all people. As in the community, every individual assumes to assist in the enforcement of law, in the protection of the life, liberty, and property of every other citizen, so in this international code of ethics, each nation assumes to do its part in guarding the international rights of every other nation. As in every State a forum has been provided for the settlement of individual disputes, and no individual is allowed the right to disregard the law of his community, so in this international compact, a forum is provided for the settlement of international disputes, and each nation is forbidden to determine when it may commit an act of aggression against another nation until it has at least brought its case into this forum for consideration and settlement if possible.

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The instrument is not as complete and as binding as the constitution of a State or nation. It still leaves to each nation the right of withdrawal, and depends to a great extent upon the moral sentiment of each nation to comply with its own obligation or the enforcement of such obligation upon a recalcitrant member. It is, however, a mighty step in the right direction. Every sentiment of justice and morality is on its side. Some of its provisions are yet crude and uncertain of application. But the whole purpose is most noble and worthy. And, as in our American Constitution, we were compelled, in order to form a more perfect union, to depend upon the right of amendment, so in this great world constitution experience will undoubtedly necessitate many changes in order to make a more perfect instrument that will work for the benefit of humanity. All of these noble and lofty purposes have been ignored in the majority report or treated with sarcastic disdain or jingoistic contempt.

Most of the amendments proposed are those which eliminate the United States from any part in the conclusion and the settlement of this great war in which we took a most noble and conspicuous part. They not only seek to isolate the United States as a world power from the rest of the civilized nations of the world, but to compel this country to abandon its allies and fail in its duties to consummate the purposes for which the war was fought.

The necessity and duty of the United States to assist in the remapping of continental Europe and western Asia, the creation of a new Poland and Czechoslovakia, the revision of the boundaries of Italy and Greece, and the expulsion of the Turk from Europe have been urged on the floor of the Senate in eloquent words by some of those who joined in this majority report. If it was our duty to assist in bringing about this result, how inconsistent our attitude in now saying that it is not our duty to extend to these countries which we brought into being the hand of protection until they can stand without our assistance. The purpose of the proposed committee amendment is to relieve ourselves of any further duty in protecting these children born of the exigencies of this war, and to compel those who suffered most in this awful conflict, who are staggering to-day under wounds that are almost fatal, to perform that duty without any assistance from us. To my mind such attitude is most selfish, immoral, and dishonorable.

It is asserted in the majority report:

> In regard to amendments generally it should be stated at the outset that nothing is more groundless than the sedulously cultivated and constantly expressed fear that textual amendments would require a summoning of the peace conference, and thereby cause great delay. There will be no necessity of summoning the peace conference, because it is in session now in Paris, with delegates fully representing all the signatory nations, as it has been for six months, and it seems likely to be in session for six months more.

No one, so far as I know, has asserted that delegates of this peace conference are not still in Paris. They are there for the purpose of carrying out certain provisions that are in the treaty itself. It required six months of arduous labor to bring the minds of all the signatory nations to a point where they could sign this treaty. It was important that every provision in the treaty should satisfy every signatory member. The treaty has been consummated. The hundreds of experts and advisers who assisted in making the treaty have

returned to their homes. Only the skeleton form of the conference remains.

What is claimed by the opponents of these amendments is that they would require a reconsideration of the whole treaty because they present a new and different treaty. And, realizing the difficulties which had to be overcome in order to secure the assent of these 27 nations, we can not fail to recognize the added difficulties and uncertainties that would arise in a resubmission of the whole question to the peace conference.

Let us take the first amendment: It is proposed to increase the vote of the United States more than sixfold. The committee report says:

> But if Great Britain has six votes in the league assembly, no reason has occurred to the committee and no argument has been made to show why the United States should not have an equal number.

If the United States is to have its vote increased sixfold, certainly France and Italy will insist upon like additional representation and voting power. And undoubtedly every other member will ask the same. The unit of representation provided in the league is that of the nation without reference to size or importance. Any other basis would have been impossible.

The situation growing out of this great world conflict is unique. Every nation that declared it was at war with Germany is made a party to this treaty, though such nation never furnished a soldier or a gun or a single dollar to maintain the war. Hedjaz, with a population scarcely as large as the city of Washington, has the vote of a nation. Panama, with a population scarcely larger, has a vote. Honduras and Uruguay, each with a population approximating half a million, have the same power as Great Britain or France or the United States in the assembly. None of them did anything to carry on the war. Canada, on the other hand, with a population of nearly eight and a half million people, and which fought valiantly through all the long years of the war, losing hundreds of thousands of soldiers, imposing a mighty burden upon her people for centuries to come, asks that she be given a vote in the assembly, not in the council, carrying the same power that you give to black Liberia, or Haiti, or Hedjaz. Australia and New Zealand, who suffered likewise, and whose sons achieved great victories in defense of the great world principle which was at stake, ask that there be some forum in which they may have a separate vote, equal to that of these nations which did absolutely nothing to maintain this war. While they may be said to be parts of the British Empire they are, nevertheless, self-governing and independent domains. The tie is one of friendly good will and interest rather than of dependency. To all intents and purposes these countries are independent, self-governing nations. They were given a voice only in the assembly, distinct from that of Great Britain. They ought to have been given this voice in that forum. That forum decides nothing in dispute among nations unless the nations themselves are willing to have the cause transferred from the council. The United States is in no danger from any one of them, because, first, she must assent to the transfer of a dispute to the assembly, and she will not do so unless she feels that her rights will be equally protected in the assembly; second, in every dispute affecting the Western Hemisphere, these self-governing domains of Great

Britain have always showed a disposition to side with the dominant country in this hemisphere, the United States. On the other hand, the European countries could complain with far greater reason that the United States will so dominate every nation in the Western Hemisphere as to have a voting power that would overrule the influence or power of the older nations than that the British Empire would have a voting power that would overrule the purposes and interests of this country. These nations in the Western Hemisphere which declared war against Germany did so to please the United States rather than for any effect their action might have on the results of the war. France, or Italy, or Great Britain could with as much reason say that the United States in every contest with a European nation will control Cuba and Panama and practically every Central and South American State. But these countries know as we know that all disputes between great nations will be settled in the council and not in the assembly.

But there is a third reason why the attempt to increase our voting strength is unnecessary and improper.

It is the British Empire that is represented in the council, where every dispute will be settled; and no self-governing dominion or part of that empire has separate representation in the council. And even if we should agree, which we need never do, to transfer any dispute with Great Britain, or with any of her self-governing colonies or dependencies, to the assembly, it would be the British Empire and not the separate parts which would be a party to the dispute. In other words, a dispute with the dominant member is a dispute with each part of the Empire, and a dispute with any part is a dispute with the whole, so that even if the dispute between the United States and Great Britain or any part of the British Empire were transferred to the assembly, the votes of that Empire and each member would be excluded the same as our own. This is the construction given by the President, and, I think, is the only logical construction. But lest there might be any misunderstanding, the construction which we claim can be declared by an appropriate reservation in form such as reservation No. 6, attached hereto.

Neither can there be any objection to a reservation which in proper language declares that in withdrawing from the league the United States must be the sole judge whether all its obligations have been fulfilled.

The only objection to reservation No. 1 is the manner in which it is expressed. As worded it would indicate to the world that this country assumed the right to withdraw whether its obligations were fulfilled or not. If, as stated in the majority report, the United States has never broken an international obligation, why use language that would indicate a right to do so? It would be far better and far more appropriate to declare that the United States would be the sole judge as to whether her obligations under the treaty had been fulfilled at the time of her withdrawal than to indicate a right to disregard her obligations.

The second reservation recommended by a majority of the committee is objectionable for several reasons. First, it is an amendment pure and simple, and an amendment of the most important article in the league of nations. Its purpose is to take the United States as a power for the peace of the world out of the league entirely.

Our disinterestedness, our freedom from the ordinary jealousies that affect the European mind, our power and our resources place us in the front rank of influence in this council of nations. We are the keystone of the arch upon which must rest the superstructure of a successful league of nations. So situated we ought not only to be willing but eager to help a distracted world which so needs the moral assistance of our membership and the potential assistance of our known power. Second, it places this country in a false and wrong position, an attitude of encouraging powerful countries to inflict or impose any wrong upon weaker nations, by our declared policy of nonintervention. The better policy and the right policy is to let the world understand that in all probability the United States will not stand idly by and allow a great wrong to be perpetrated by one country against another. Third, that policy of nonintervention is asserted in a dictatorial and offensive way. It is not couched in the language which should govern friendly nations in answering proposals, one to another.

Under my construction, and I think under the construction of the greater number of those who have studied this league of nations provision, the question of interference and extent of interference, if any, must finally be decided by the Congress when the occasion arises, and no obligation rests upon the United States to interfere in any way unless its Congress shall so decide at such time. This committee reservation should be modified so as to place this country in a proper attitude toward the world, to let the world know that the United States is against international crime, and that she can be counted upon to throw the weight of her great moral influence in favor of right and justice, leaving to the Congress to determine whether and to what extent it will intervene when the occasion arises. A substitute reservation (No. 2 annexed) will be offered to place our country on the moral side of these great questions, but leaving the matter wholly in the hands of the Congress.

In considering the Shantung amendment the majority report reads:

> The majority of the committee were not willing to have their votes recorded at any stage of the proceedings in favor of the consummation of what they consider a great wrong.

In this instance and, it seems to me, in many others the committee would prefer to express an idle sentiment rather than accomplish a result for the good of China. This declaration is not necessary because there need be no conflict between a sentiment favorable to China and an act which will unquestionably relieve China from an embarrassing situation in which she has placed herself. If the committee amendment is adopted, Japan is thrown out of the league, or, more accurately, kicked out of it, by the United States. China is made to break her treaty with Japan. Japan outside the league is of course relieved, so far as the league is concerned, from any obligation to make good her treaty with China for a return of Shantung: and China is in no position to insist upon the fulfillment of a treaty which she, with the assistance or by the act of the United States, has abruptly and unceremoniously broken. We are met, therefore, in this Shantung proposition with a practical question. If China keeps her agreement and becomes a member of the league and Japan becomes a member of the league, then Japan must keep her counter agreement with China, and that counter agreement is to return the

German concessions to China. This can be made clear by a brief statement of the facts.

In 1898 Germany secured from China a 99 years' lease on both sides of the entrance of Kiaochow Bay; a concession on both the northern and southern sides of the entrance to the bay, wherein Germany could exercise administrative rights; certain islands in the bay and islands lying to the seaward, and the right to construct two lines of railway in Shantung.

When the war broke out and Japan took her place by the side of the Allies, the project allotted to her was the seizure of the German forts and all German rights in China. This she accomplished in a few months. China rendered her no assistance whatever in accomplishing this result. Shortly thereafter, and on May 25, 1915, Japan secured a treaty from China whereby China agreed that Japan should acquire the German leasehold and interest rights which Germany had theretofore held. Granted, that China would have preferred to have had the Germans ousted without having the Japanese substituted for them. But China could not do it and would not make the attempt. Japan could do it and did do it, and at no little cost in blood and treasure. Whatever Japan took she took from Germany and not from China, and long before China became even a paper ally. However, China received a very valuable advantage in her treaty with Japan over what she held under her treaty with Germany, because as a part of the treaty, and as a part of the consideration, Japan agreed as follows:

When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

1. The whole of Kiaochow Bay to be opened as a commercial port.
2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.
3. If the foreign powers desire it, an international concession may be established.
4. As regards the disposal to be made of the public buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.

That the whole of Kiaochow Bay was to be opened as a commerical port is in no way injurious to China. It simply means that all nations of the world may carry on trade relations with China through that port as through other ports. It is the open-door policy.

The concession mentioned under No. 2 is simply the right to have a place, the same as Great Britain, France, Italy, Belgium and other countries have, where the Japanese may maintain a residence district under her control.

The third is a like concession where the nationals of any number of powers, if such nationals desire it, may reside.

The fourth pertains only to buildings and properties belonging to the German Government, of no important value and concerning which there could be little ground for dispute.

There is nothing in these conditions to which any just complaint could be made, unless it be that the grant is to Japan and not to some other nation.

Now, what great advantage does China secure by this treaty? She secures the right of immediate return of these German concessions to her at the close of this war when the treaty shall become

obligatory and the said concessions are left to the free disposal of Japan. That does not mean any time, 10 years hence, or 5 years, or 3 years, or even 1 year hence. It means that as soon as the treaty is signed Japan shall begin the process of returning the leased territory to China. If Japan should fail to do this, she will have been the first nation in the league to break her treaty agreement, both with China and with the league of nations, because, under the league of nations, she is "held to a scrupulous respect for all her treaty obligations." Her failure to comply with her treaty obligations would be a cause for war. On complaint of China the matter would have to go to the council of the league of nations. If, in defiance of the recommendation of that council, Japan still refused to comply with her treaty she would be ousted from the league of nations and the nations would be compelled to maintain the rights of China. But this is on the assumption that China herself comes before the league with clean hands and unbroken covenants. If, however, we compel her by this amendment to break her treaty she can not insist upon Japan performing the conditions of a treaty which she herself has repudiated. Japan, being forced out of the league, will be under no obligation to conform to any of its provisions. To-day she holds the German rights which in effect control the Shantung Peninsula by both the right of conquest and a treaty with China. If we break China's treaty we will be in no position to compel Japan to yield that right of conquest. Great Britain, France, and Italy, by reason of their treaty obligations, whereby they agreed that Japan might hold what she had taken from Germany, can bring to bear upon her no pressure. China will then be at the mercy of Japan. We will not go to war against Japan to settle a quarrel between Japan and China.

Our true, as well as practical, course is to say to China, "Keep your own record clear and your covenants unbroken." Then the league of nations can properly say to Japan, "You must keep your record clear and your covenant unbroken; and your covenant is to return the Shantung German leasehold to China immediately after your power to do so has come into existence by the adoption of this treaty."

By this process China will not only secure all the rights which she conceded to Germany, with these minor conditions which I have mentioned, but will also be assured hereafter against any further attempt on the part of any nation to obtain unconscionable rights over her or to dismember her empire.

The declaration by the majority of the committee that the German rights were taken from one faithful ally and handed over to another ally is far from a correct statement of the case. The German rights were not taken from China. They were taken from Germany. Nor was China an ally of ours in any sense, either when Japan took the German rights from Germany or when she transferred those rights to Japan. In fact she never became an ally except on paper, and that about two years later.

There is but one proper way to proceed and that is, not to break agreements but to insist upon nations keeping their agreements. And that is China's salvation in this case.

To the substance of some of the proposed reservations there can be no serious objection. But against the manner in which they are asserted I do most earnestly protest. They are couched in a defiant,

discourteous, and overbearing manner, and seem intended to express a jingoistic spirit that ought to be eliminated from American statesmanship.

I placed in the Record some days ago certain reservations which I think should be adopted in lieu of those which have been presented by the majority of the committee. These proposed reservations introduced by me into the Record cover subjects not referred to in the reservations adopted by the committee. I shall make them a part of this report.

The reservations referred to read as follows:

1. That whenever the two years' notice of withdrawal from the league of nations shall have been given by the United States, as provided in article 1, the United States shall be the sole judge whether all its international obligations and all its obligations under this covenant shall have been fulfilled at the time of withdrawal.

2. That the suggestions of the council of the league of nations as to the means of carrying the obligations of article 10 into effect are only advisory, and that any undertaking under the provisions of article 10, the execution of which may require the use of American military or naval forces or economic measure, can under the Constitution be carried out only by the action of the Congress, and that the failure of the Congress to adopt the suggestions of the council of the league, or to provide such military or naval forces or economic measures, shall not constitute a violation of the treaty.

3. The United States reserves to itself the right to decide what questions are within its domestic jurisdiction and declares that all domestic and political questions relating to its internal affairs, including immigration, coastwise traffic, the tariff, commerce, and all other purely domestic questions are solely within the jurisdiction of the United States and are not by this covenant submitted in any way either to arbitration or to the consideration of the council or the assembly of the league of nations or to the decision or recommendation of any other power.

4. The United States does not bind itself to submit for arbitration or inquiry by the assembly or the council any question which in the judgment of the United States depends upon or involves its long-established policy commonly known as the Monroe doctrine, and it is preserved unaffected by any provision in the said treaty contained.

5. That in advising and consenting to the ratification of said treaty the United States understands that the German rights and interests, renounced by Germany in favor of Japan under the provisions of articles 156, 157, and 158 of said treaty, are to be returned by Japan to China at the termination of the present war by the adoption of this treaty, as provided in the exchanged notes between the Japanese and Chinese Governments of date May 25, 1915.

6. That the United States understands and construes the words "dispute between members" and the words "dispute between parties" in article 15 to mean that a dispute with a self-governing dominion, colony, or dependency represented in the assembly is a dispute with the dominant or principal member represented therein and that a dispute with such dominant or principal member is a dispute with all of its self-governing dominions, colonies, or dependencies; and that the exclusion of the parties to the dispute provided in the last paragraph of said article will cover not only the dominant or principal member, but also its dominions, colonies, and dependencies.

P. J. McCUMBER.

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